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Security Council

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Letter dated 16 April 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith the assessment of the work of the Security Council during the presidency of Germany (February 2003) (see annex). This assessment was prepared on my own authority, but I have consulted other members of the Council before submitting it.

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Hanns **Schumacher**
Ambassador
Chargé d'affaires a.i.

03-33332 (E) 300403

Annex to the letter dated 16 April 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the President of the Security Council

Assessment of the work of the Security Council during the presidency of Germany (February 2003)

Introduction

The month of February was a very busy month for the Security Council, as the question of Iraq moved to the forefront of the Council's deliberations.

In addition to nine informal consultations and two private meetings, the Security Council held nine public meetings, including two open debates, on Iraq and combating terrorism, in the spirit of enhancing the transparency of the Council's work.

There were no mandate renewals for United Nations peacekeeping missions in the month of February. The mandate for the United Nations Mission in Angola expired on 15 February. The Security Council adopted a resolution on the situation in Côte d'Ivoire which was taken up twice in informal consultations. A presidential statement was adopted after the public meeting on Kosovo. Also twice on the Council's agenda was the situation in the Democratic Republic of the Congo, including a briefing by the United Nations Secretariat and the United Nations High Commissioner for Human Rights, highlighting the critical human rights situation in the eastern part of that country. Furthermore, the Council heard the regular monthly briefings on the situation in Afghanistan (focused this time on the reform of the security sector) and the Middle East.

Africa

Angola

In informal consultations on 12 February, the Special Representative of the Secretary-General for Angola briefed members of the Council on the second report of the Secretary-General on the United Nations Mission in Angola. The Mission's mandate expired on 15 February and was not renewed. Members of the Council expressed the view that the responsibility for the consolidation of the peace process in Angola now lies with the Government of Angola and that further internal dialogue is indispensable for national reconciliation. Members of the Council placed special emphasis on the tasks remaining in the areas of disarmament, demobilization and reintegration, mine clearance, human rights, and preparation for elections. Members of the Council agreed that the support of the international community and the United Nations is necessary, as well as efforts by Angola to address in particular humanitarian issues. Members of the Council agreed with the recommendation of the Secretary-General to entrust the UNDP Resident Coordinator in Angola with the tasks remaining from resolution 1433 (2002). Members of the Council agreed on elements of a statement to the press.

Democratic Republic of the Congo

The Security Council held two meetings with regard to the situation in the Democratic Republic of the Congo. At an open meeting on 13 February, members of the Council heard briefings by the Secretariat and the United Nations High Commissioner for Human Rights, Sergio Vieira de Mello, on the situation of human rights in the Democratic Republic of the Congo. The reports presented the general situation of human rights in the country, highlighted recent gross violations of human rights committed by the different forces operating there, and provided an update on the Kisangani massacres of 14 and 15 May 2002. Council members strongly condemned human rights violations in the Democratic Republic of the Congo and gave broad support to the High Commissioner's recommendations and conclusions. A detailed report of the High Commissioner on this matter was subsequently issued (S/2003/216).

In informal consultations on 26 February, members of the Council heard briefings by the Special Representative of the Secretary-General for the Democratic Republic of the Congo, Amos Namanga Ngongi, and the Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno, on the Secretary-General's thirteenth report on the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) (S/2003/211). It was stressed that the military situation on the ground remained unstable, in particular in the north-eastern part of the country. While security concerns hampered the verification work of MONUC, the humanitarian situation remained characterized by widespread insecurity, massive displacement and severely restricted humanitarian access.

Council members called on the Congolese parties to fully implement the power-sharing agreement signed in Pretoria in December 2002, and to establish the transitional government. Members of the Council also called on all Governments in the region to take confidence-building measures to promote security in the border areas. Members of the Council also strongly condemned a recent attack against a MONUC helicopter.

Côte d'Ivoire

The Security Council held two informal consultations on the situation in Côte d'Ivoire. On 4 February, members of the Council heard a briefing by the Under-Secretary-General for Political Affairs, Kieran Prendergast, in which they were informed that the situation had significantly deteriorated since the last briefing of the Council and that the emergence of hate media in particular gave rise to grave concern. Council members took note of the deployment of 680 troops of the Economic Community of West African States. Members of the Council reiterated that the Linas-Marcoussis Agreement of 23 January was the basis for a settlement of the conflict. The Council then proceeded to adopt resolution 1464 (2003) at a formal meeting.

On 21 February, the Under-Secretary-General for Political Affairs briefed the Security Council on the activities of the monitoring committee which was established pursuant to the Linas-Marcoussis Agreement. The committee held two meetings under the chairmanship of the Special Representative of the Secretary-General for Côte d'Ivoire. Members of the Council were also briefed on the observations of the Secretary-General's humanitarian envoy to Côte d'Ivoire, Carolyn McAskie. Council members agreed on elements of a statement to the press.

Asia

Iraq

On 5 February, at a public meeting at the ministerial level (attended by 12 Ministers for Foreign Affairs), the United States Secretary of State, Colin Powell, briefed the Council about intelligence information on programmes related to weapons of mass destruction in Iraq and the lack of readiness of the Government of Iraq to fulfil its disarmament obligations under the relevant Security Council resolutions. Members of the Council listened with attention to the presentation by the Secretary of State and made statements afterwards; some members of the Council expressed support for a strengthened inspections regime. All members of the Council urged Iraq to cooperate more actively with the inspectors and underlined the utmost importance of finding a solution within the Security Council. Furthermore, some members of the Council emphasized the importance of the forthcoming visit of Mr. Blix and Mr. ElBaradei to Baghdad.

On 14 February the Council held a public meeting at the ministerial level followed by a private meeting on Iraq. Eleven Ministers for Foreign Affairs attended. In updating their report of 27 January, Mr. Blix and Mr. ElBaradei briefed the Council about the outcome of their visit to Baghdad and the implementation of the inspections conducted in accordance with resolution 1441 (2002). They reported improved Iraqi cooperation on process but that, while some cooperation on substance was forthcoming, the required full cooperation on substance was still lacking. They expressed confidence that the inspectors could carry out their mandate successfully, while pointing out the necessity for Iraq to cooperate in a more proactive way. Members of the Council listened to the briefing with utmost interest and commended the inspectors on their work. Some delegations said that without Iraqi cooperation on substance inspections could not achieve the goal of disarmament. Other delegations said that the inspections were working, had already produced positive results and should be continued in an enhanced way.

On 18 and 19 February, at the request of members of the Non-Aligned Movement, the Council held an open debate on the situation in Iraq and Kuwait with the participation of 61 delegations. A significant number of delegations favoured the continuation of an enhanced inspections regime, urged Iraq to cooperate more actively in the implementation of its disarmament obligations and warned of the negative repercussions of any military operation. Other delegations emphasized that even a strengthened inspections regime would not bring about any changes without Iraqi cooperation on substance if Iraq did not show any willingness to disarm, and asked the Council to assume its responsibility under the relevant resolutions.

During consultations on 24 February, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America tabled a draft resolution stating that Iraq had failed to take the final opportunity afforded to it by resolution 1441 (2002). On the same day Germany, France and the Russian Federation had a memorandum circulated as a Council document in which the authors asked for a programme of action for the inspectors, reinforced inspections and specific timelines for the implementation of the programme.

During consultations on 27 February, some members reiterated their doubts about Iraq's willingness to cooperate in accordance with resolution 1441 (2002) and expressed themselves in favour of the new resolution tabled on 24 February. Other

members underlined the progress achieved through inspections, reiterated their full support for the work and action of Mr. Blix and Mr. ElBaradei and for the continuation of the activities to disarm Iraq peacefully on the basis of resolution 1441 (2002), and welcomed an accelerated submission of the programme of work for approval by the Council.

Situation in the Middle East, including the Palestinian question

The monthly briefing of the Security Council on the situation in the Middle East, including the Palestinian question, was given by the Under-Secretary-General for Political Affairs on 13 February. Subsequently, the Council held informal consultations. Some members expressed the view that rapid publication of the road map could bring a long-awaited renewed prospect for a political solution to the region. Members expressed their concern at the humanitarian situation in the Palestinian territories. The Security Council will continue to pay close attention to this issue also under present circumstances.

Afghanistan

On 24 February, the Council heard briefings by the Under-Secretary-General for Peacekeeping Operations, Ambassador Mutsuyoshi Nishimura of Japan and Ambassador Harald Braun of Germany. Their reports on the situation in Afghanistan focused on the reform of the security sector.

The Under-Secretary-General reported further achievements in the implementation of the Bonn process and pointed out the progress made in the constitutional process, as well as in the preparations for national elections scheduled for June 2004. In view of these difficult political decisions, he stressed the relevance of a security sector reform and of immediate measures to improve the current security situation. He thanked the United Nations Assistance Mission in Afghanistan (UNAMA) and the States that had taken a lead role in the reform processes, and called upon the international community to continue its financial aid.

Ambassador Nishimura gave an account of the situation with regard to demobilization. He stated that progress had been made, and that the demobilization, disarmament and reintegration process would commence soon. Success in this area would depend greatly on a dedicated and unified collaboration of all regional and political leaders in Afghanistan. Ambassador Braun reported on advances in the reform of the police sector, including recruitment and the training of a national police. The support of the newly elected Minister of the Interior for this reform was welcomed. Members of the Council thanked UNAMA, Japan and Germany for their engagement in the areas of their respective sectoral leads. They noted the progress made so far and affirmed their continuing support in the matter while underlining once again the outstanding role that national security plays in the reconstruction of Afghanistan.

Europe

Kosovo

On 6 February, the Council heard a briefing by the Special Representative of the Secretary-General on the situation in Kosovo and held an open debate on the

issue. The Special Representative provided the Council members with a benchmark baseline report on the status of implementation of the benchmarks for Kosovo in the following areas: functioning of the democratic institutions; the rule of law (police/judiciary); freedom of movement; sustainable returns and minority rights; the economy; property rights; dialogue with Belgrade; and the Kosovo Protection Corps. The Security Council authorized the President to make a statement, which was issued as S/PRST/2003/1.

Other issues

Combating terrorism

The Security Council held an open debate on 20 February on the item entitled "Threats to international peace and security caused by terrorist acts". This was a follow-up meeting to the ministerial meeting held on 20 January on the same question. Twenty-three non-Council member States used this opportunity to express their views on current efforts to enhance the fight against terrorism. A general commitment to strengthening the international coalition against terrorism within the framework of the United Nations, as specified in the ministerial declaration of 20 January (see resolution 1456 (2003)), was underlined. The special contribution and relentless efforts of the Counter-Terrorism Committee under the able chairmanship of Ambassador Sir Jeremy Greenstock were highlighted.

The States Members of the United Nations also underlined the importance of strengthening multilateral instruments to counter the proliferation of weapons of mass destruction and dangerous materials with a view to preventing their falling into the hands of terrorists. They stressed that States, while combating terrorism, must uphold the rule of law, including international law and human rights, refugee and humanitarian law. The important role of international, regional and subregional organizations in the fight against terrorism was especially underlined and the initiative of the Counter-Terrorism Committee to hold a special meeting with such organizations at the beginning of March was highly appreciated.

General issues relating to sanctions

On 25 February, the Security Council heard a briefing by the State Secretary for Foreign Affairs of Sweden, Hans Dahlgren, on the results of the Stockholm Process on the Implementation of Targeted Sanctions. The Stockholm Process, initiated by Sweden in October 2001, focused on improving the implementation of sanctions by making effective use of targeted sanctions, which are a tool to focus pressure on targeted States and entities and minimize the unintended impact on civilian populations and non-targeted States and entities. During the debate, Council members recognized that the Stockholm Process had built on the results of previous efforts undertaken by Switzerland and Germany as well as on the ideas discussed in the working group on general issues relating to sanctions.

The first international debate on targeted sanctions, hosted by Switzerland in the Interlaken Process, focused on financial sanctions. The key results were a better understanding of the specific technical requirements of targeted financial sanctions, the elaboration of language modules and definitions. This debate progressed further in the Bonn-Berlin Process, under the auspices of Germany, concentrating on the

design and implementation of arms embargoes as well as travel- and aviation-related sanctions.

Council members welcomed Sweden's initiative of October 2001 to launch the Stockholm Process, which has provided a valuable contribution to the debate on how to strengthen the capacity of the United Nations system and of Member States to implement targeted sanctions. A number of concrete recommendations have been put forward to this effect. Members of the Council encouraged further discussion and work to refine the instrument of targeted sanctions.

Letter dated 14 February from the Secretary-General to the President of the Security Council

The Security Council held consultations on 19 February on the letter from the Secretary-General dated 14 February (S/2003/182), which transmitted a letter from the Director General of the International Atomic Energy Agency (IAEA) reporting to the Council the IAEA Board of Governors resolution of 12 February 2003 referring to the Safeguards Agreement between IAEA and the Democratic People's Republic of Korea pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. The Council decided to refer the matter to the respective experts and to revert to it at a later stage.

Working Group on Conflict Prevention and Resolution in Africa

On 28 February, the mandate of the Security Council Working Group on Conflict Prevention and Resolution in Africa was renewed until 31 December 2003 (see S/2003/235).

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Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Timor-Leste submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-34288 (E) 140503

Annex

Note verbale dated 29 March 2003 from the Permanent Mission of Timor-Leste to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to transmit a report on the measures being taken by the Democratic Republic of Timor-Leste to implement Security Council resolution 1373 (2001) (see enclosure).

Enclosure

Report to the Counter-Terrorism Committee of the Security Council pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Timor-Leste became a new democratic republic on 20 May 2002, only months after the tragic terrorism events of 11 September 2001. From the outset Timor-Leste has been fully committed to the community of nations' battle against the scourge of terrorism. After a long and hard independence struggle, the maintenance of peace and security has become a high priority. Accordingly, upon joining the United Nations on 27 September 2002, Timor-Leste immediately welcomed its counter-terrorism obligations under Resolution 1373. Timor-Leste recognizes and appreciates the necessity for international cooperation in order to combat terrorism.

As a new country, much must still be done to enact and implement legislation in many areas necessary for governance as well as for counter-terrorism. Our financial and human resources are limited. Thus we have appreciated and accepted the CTC's offer of assistance in order to deal with the complexity of the required counter-terrorism legislation.

Although much remains to be done, Timor-Leste is already making some progress in implementing the requirements of Resolution 1373. The United Nations Mission of Support in East Timor (UNMISET) is successfully training and preparing Timorese police and military to maintain peace, law and order after the Mission winds down in 2004. A recent special report of the Secretary General (S/2003/243) notes that although some adjustments are necessary to the downsizing schedule, the mission is nonetheless on target to accomplish its tasks by June 2004.

In his March 11th statement to the Security Council concerning the Secretary General's special report, the Permanent Representative of Timor-Leste pointed out that recent security disturbances in our country were caused by terrorists who are enemies of independence, freedom and democracy. He asserted that the terrorists would not prevail. The Government of Timor-Leste reiterates and reaffirms this assertion. Timor-Leste is fully committed to the promotion of security, stability, the rule of law, and respect for human rights necessary to defeat terrorism.

Timor-Leste is currently drafting its National Legislation on Terrorism. Our Council of Ministers is meeting to consider the draft laws. The Government is considering all of the requirements of Resolution 1373 including, the prevention and suppression of the financing of terrorist acts, criminalization of money laundering or any willful facilitation of terrorist financing, and the freezing of all economic resources of people who commit or facilitate terrorist activity. Timor-Leste is determined not to be a safe haven for terrorists or those who aid and abet them. It plans to fully cooperate in the exchange of information with other states to provide early warning. It plans to ensure that all who plan, finance, commit or otherwise facilitate terrorism, are brought to justice and punished accordingly. Border controls will be further developed to prevent the movement of terrorists.

Timor-Leste is a member of Interpol and actively cooperates with Interpol with regard to actions taken against terrorism.

Timor-Leste is in the process of joining regional forums such as ASEAN, and the Southwest Pacific Forum. It has also joined the Non-Aligned Movement. Timor-Leste actively participated in the 2002 Bali Regional Ministerial Conference which looked at ways in which regional cooperation could be developed to overcome the threats imposed in the region. Timor-Leste plans to use and cooperate with its regional organizations in order to combat terrorism in accordance with paragraph 3 of Resolution 1373.

Timor-Leste is preparing a packet of International Conventions and Protocol relating to Terrorism that will be submitted to the Council of Ministers for the approval. Timor-Leste intends to become parties to the conventions as soon as possible.

In addition to the above, Timor-Leste will carefully address all of its obligations under Resolution 1373. Due consideration will be given to international law.

As legislation becomes finalized, Timor-Leste will be in a position to provide more details of its compliance with Resolution 1373 in future reports. In the meantime, the Government assures the Counter Terrorism Committee of its full cooperation and commitment.

Dr. Mari Bim Amude Alkatiri
Prime Minister

Done in Dili, Timor-Leste, on 29th March 2003

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Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Gambia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33461 (E) 010503

Annex

Letter dated 28 March 2003 from the Permanent Representative of the Gambia to the United Nations addressed to Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to submit the Gambia's report to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (see enclosure).

I should be grateful if you would arrange for the present letter and its enclosure to be circulated as a document of the Security Council.

(*Signed*) Crispin **Grey-Johnson**
Ambassador
Permanent Representative

Enclosure

Report on the implementation of resolution 1373 (2001): counter-terrorism measures*

1a. The Gambia Government has enacted legislation, the Anti-terrorism Act 2002, the purpose of which is to provide for measures to combat terrorism and related matters, as required by UNSC Resolution 1373.

The main mechanisms which The Gambia has used to implement Res.1373 are the passing of the Anti-terrorism Act 2002 and the Money Laundering Bill 2003. By an opportune moment a new Financial Institutions Bill 2003 is also ready to go before the National Assembly. This bill will further complement the objectives of Resolution 1373. It is anticipated that the National Assembly will pass these two bills into law during its first legislative session of 2003 which is currently in session. These are in addition to other provisions of our Criminal Code and the supervisory powers of the Central Bank of The Gambia over financial institutions.

1b. Section 11, 12 and 13 of the Anti-Terrorism Act specifically prohibit such an activity. A definition of terrorism is included in the Act. It is widely defined and makes use of international standards and precedents.

1c. Section 17 and 18 of the ATA specifically empowers the Inspector General of Police to seize funds belonging to or being used or held directly or indirectly for the purposes of terrorism or soliciting funds for terrorism purposes.

Section 37 of the Central Bank Act 1992 (CBA) empowers the Central Bank to demand information from financial institutions regarding their operations.

Under Section 42 of FIB (Financial Institutions Bill) the Central Bank may take possession of a Financial Institution if banking is conducted in an unlawful manner. An unlawful manner would

* The annexes are on file with the Secretariat and are available for consultation.

include activities contrary to the ATA (Anti-Terrorism Act) and MLB (Money Laundering Bill). The present Financial Institutions Act 1992 is due for repeal and replacement by the new Financial Institutions Bill. The latter gives much wider powers to the Central Bank.

1d. This activity is covered in sub-paragraph 1(b). However sections 4 and 5 of the Money Laundering Bill make disclosure by financial institutions mandatory. In conjunction with the Money Laundering Bill, the NGO (Non-Governmental Organization) Affairs Decree 80 approves and supervises the activities of charitable organisations. This includes the inspection of their books and the regulation of their activities.

2a. Sections 36 and 37 of the ATA deal with recruitment and prohibit it entirely as per the terms of the resolution.

In addition The Gambia is a party to the ECOWAS Protocol on the mechanism for Conflict Prevention, Resolution, Management, Peace Keeping and Security. This mechanism provides in its Art 46, for control of trans-border crime. In this domain ECOWAS promotes close cooperation among the Security Services of Member States through its technical arm; the Defence and Security Commission.

Art 49: Measures against money laundering: This provides for the confiscation of laundered proceeds and illicit funds and eases banking secrecy laws within the sub-region.

Art 50: Control of the Proliferation of Small Arms: This includes the control of the Importation, Exportation, Manufacture and Eradication of the flow of small arms, through a moratorium. The Moratorium requires the prior approval of all member states before any member state can import small arms and light weapons. This system enhances transparency and the effective monitoring of the circulation of small arms and other weapons which may illegally find their way into the hands of terrorists and other groups.

To enhance the effective implementation of the moratorium certain preventive measures have been put in place.

- Enhancing weapons control at Border posts through the network of Chiefs of Defence staff of ECOWAS member countries.
- The establishment of a database and a regional arms register.
- Facilitating dialogue with arms producers and suppliers.

The Moratorium is further buttressed by a code of conduct signed by all ECOWAS Heads of State who are preoccupied by the diffusion of light weapons which fuels criminality, banditry, cross border crime and the emergence of new forms of terrorism. The ECOWAS Heads of State and Government requested the then Organization of African Unity, now African Union and the United Nations to facilitate the implementation of the Moratorium through the establishment of a regional project. This project was launched with funds from the UNDP and other donors It is the programme for Co-ordination and Assistance for Security and Development (PCASED). In pursuance of PCASED, National Commissions have been set. PCASED is also to extend the ECOWAS moratorium to other regions of Africa.

There is an additional protocol to the mechanism. It is the protocol on the possession, sale and circulation of weapons.

There is currently an ongoing arrangement concerning the installation of a Communications Centre via Satellite to be linked to ECOWAS Headquarters and to all ECOWAS countries. The system – C4 Installation – will provide a medium for the exchange of information.

2b. The Gambia Police Force has a mechanism to provide early warning to other states on any security related matter including anticipated terrorist acts. Such messages are conveyed to other states through the following:

- X400 Interpol Communication Channel: This is a worldwide communication mechanism through which messages can be disseminated to and received from other States. Abidjan, Cote d'Ivoire hosts the sub-regional Bureau, serving as coordinator of the member-states.

There exists a bilateral arrangement between the Republics of The Gambia and Senegal on the exchange of information on security matters. In addition cooperation agreements exist in judicial and criminal investigation matters with:-

- Algeria
- Mauritania
- Senegal
- Morocco,
- France
- Nigeria
- U.S.A (at a preparatory stage)

2c. The Gambia shares borders with only Senegal. The Gambia currently has 12 recognized border crossing points including one airport and a seaport, all manned by Immigration Officers.

The Immigration Act of 1965 (see: Laws of The Gambia, 1965, Volume III, Chapter 16:02), incorporates the followings:

- All Aliens are subjected to Immigration screening at border entry points to determine their admissibility.
- All foreign nationals are required to have a valid passport or other form of identification before are permitted entry into the country.
- Immigration Officers at entry points are empowered to determine if a subject is eligible for admission.
- Prohibited Immigrants and Deportation **Proceedings (Part VI to Part VII of the 1965 Act**) are fully covered and are in line with international standards.

Under the 1990 Extradition Act persons have been successfully extradited for prescribed offences. The ATA also makes provision for the expeditious extradition of a person suspected of terrorism offences.

2d. The Anti-Terrorism Act (ATA 2003) provides for measures against cross-border terrorism, under its sections 34 and 35.

2e. This area is covered by the Anti-Terrorism Act 2003. The wide definition provides for terrorist crimes and the penalties imposed show the seriousness in which it is held. The High Court in The Gambia has jurisdiction over the whole country and over all persons living in it, excluding diplomats. Extradition is possible in all cases.

2f &g. Mutual Assistance and Extradition are provided for in part VI, sections 39 to 47. Under these provisions, requests may be made to The Gambia to search for and gather evidence. Prisoners may also be transferred to other countries to act as witnesses.

3b. See paragraph 2f supra

3a & c:
Bilateral and other arrangements in place:-

- The Joint Ministerial Commission between The Gambia and Senegal discusses among other things security and cross-border issues.
- The ECOWAS C4 Installation between the United States European Command and ECOWAS.
- The Defence and Security Commission of ECOWAS which comprises the Chiefs of Defence staff. They conduct regular meetings and consultations on matters on security in the sub-region.

3d & e: The Gambia has signed and ratified the following UN Conventions aimed at combatting Terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, Signed at Tokyo on 14 September 1963. (Deposited with the Secretary-General of the International Civil Aviation Organization).
  Signed: 4th January 1979 Ratified: 4th April 1979

- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 18 December 1970. (Deposited with the Governments of the Russian Federation, the United Kingdom and the United States of America).
  Signed: 18th May 1971 Ratified: 28th November 1978

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971. (Deposited with the Governments of the Russian Federation, the United Kingdom and the United States of America).
  Accession: 28th November 1978

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973
  Ratified: 2nd May 2002

- International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
  Ratified: 2nd May 2002

- Convention on the Physical Protection on Nuclear Material, signed at Vienna on 3 March 1980. (Deposited with the Director-General of the International Atomic Energy Agency).
  Pending

- Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988. (Deposited with the

Governments of the Russian Federation, the United Kingdom and the United States of America and with the Secretary-General of the International Civil Aviation Organization).
Signed: 16th June 2000 Ratified: 16th July 2000

- Convention for the Suppression of Unlawful Acts against the Safety on Maritime Navigation, done at Rome on 10 March 1988. (Deposited with the Secretary-General of the International Maritime Organization)
Ratified

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988. (Deposited with the Secretary-General of the International Maritime Organization)
Pending

- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. (Deposited with the Secretary-General of the International Civil Aviation Organization).
Acceded to 20th June 2000

- International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.
Ratified 2nd May 2002

- International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations on 9 December 1999.
Pending

The intervention of Government is to proceed with and it is proceeding with the finalisation of the pending instruments.

3f & g. The Gambia as a signatory to the 1951 UN Convention on refugees and its subsequent 1967 Protocol, works closely with the UNHCR office based in Dakar, Senegal. All refugees are required to be registered by the UNHCR office before they are recognized by the Gambia Immigration Department.

Refugees are no exception to the Immigration Act covering the prohibition and deportation of immigrants. Refugees undergo a dual screening process conducted by the UNHCR office and the Gambia Immigration Department before they are formally admitted.

4a. National efforts: A national drug control bill was passed into law in 2002. It establishes the National Drug Control Council and its Governing Board. It aims to control and prevent trafficking in Drugs, Arms and Sensitive materials, through its sections 54; 57(1); 64(2); 65(1); 66(1); 90(1); 103(1); 112(1); 116; 117 and 126.

Section 54:

57(1)	-	Trafficking in Drugs and Arms
54	-	Trafficking in Drugs and arms, illegal movement of sensitive materials, international terrorism and trans-national organised crime.
65(1)	-	Drug trafficking, money laundering and terrorism.
66(1)	-	Money laundering.
72	-	Trans-national Crimes, Terrorism and Money Laundering
90	-	Drug trafficking, trans-national issues
103	-	Money laundering
112	-	International cooperation
116	-	International cooperation in trans-national crimes
126	-	Extradition in trans-national crimes

4b. International cooperation:

There exists a Police Chiefs Forum at the sub-regional level through which Police Chiefs of Member States meet, discuss and exchange information on international terrorism, trans-national organised crime, trafficking in drugs and arms, illegal movement of sensitive materials etc.

Support and assistance will be needed if the competent arms of government are to effectively deal with the multi-dimensional threat of terrorism. Support will be in the form of capacity building and logistics – computers, vehicles, communications equipment etc. This will complement government's efforts in the global fight against terrorism. Donor support and input will be crucial in view of the real constraints that are experienced locally.

Annexes:

1. Anti-terrorism Act passed in 2002 by the National Assembly and assented to by the President
2. Money Laundering Bill 2003
3. Financial Institutions Bill 2003
4. National Drug Control Act 2002
5. Immigration Act 1965
6. ECOWAS: Protocol relating to the mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.
   - " Convention on Extradition (1994)
   - " Convention on Mutual Assistance in Criminal Matters (1992)
   - " Protocol relating to Mutual Assistance in Defence

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Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Republic of Seychelles submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Counter-Terrorism Committee

03-33442 (E) 080503

BEST COPY AVAILABLE

Annex

Letter dated 31 March 2003 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour of submitting the report of the Government of Seychelles on the implementation of United Nations Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Claude **Morel**
Ambassador
Permanent Representative

Enclosure

Report of the Government of the Republic of Seychelles to the United Nations Counter-Terrorism Committee, submitted pursuant to paragraph 6 of resolution 1373 (2001) of the United Nations Security Council*

27 March 2003

* The annexes to the report are on file with the Secretariat and are available for consultations.

Report of the Government of Seychelles, pursuant to paragraph 6 of resolution 1373 (2001) of the United Nations Security Council

INTRODUCTION

The Government of the Republic of Seychelles expresses its unequivocal condemnation of terrorism and it believes that no cause can ever justify the use of violence as a means of settling disputes, or legitimization of the destruction of innocent lives.

The Government of Seychelles recognizes that terrorism constitutes a challenge to all States and it is committed to implement effective and appropriate mechanisms to combat the scourge of terrorism.

It expresses its readiness to cooperate with the United Nations in combating international terrorism, in accordance with the rules of international law and the basic axioms of national sovereignty, recognizing the distinction between terrorism on the one hand, and resistance to foreign occupation on the other.

This Report represents the commitments and cooperation of the Government of Seychelles to implementation of the United Nations Security Council Resolution (UNSCR) 1373 adopted on the 28th September 2001 and other relevant resolutions.

PARAGRAPH 1. DECIDES THAT ALL STATES SHALL:
(A). PREVENT AND SUPPRESS THE FINANCING OF TERRORIST ACTS

At present Seychelles has no legislation that specifically prevents and suppresses the financing of terrorist acts.

The Government of the Seychelles is however committed to prevent terrorism and the financing of terrorism and has prepared draft Anti-Terrorism Legislation.

Existing legislation in Seychelles would assist authorities in Seychelles in preventing and suppressing the financing of terrorism.

The Anti-Money Laundering Act 1996 criminalises and defines money laundering and designates money laundering as an extraditable offence.

Money laundering is defined as engaging directly or indirectly, in a transaction that involves money or other property, that is proceeds of crime; or receiving, possessing concealing, disposing or bringing into Seychelles any money, or other property that is the proceeds of crime, knowing or having reasonable grounds for knowing that the money or the other property is derived or realised, directly or indirectly from any unlawful activity.

This Act also puts an obligation on financial institutions to maintain identification procedures and such record keeping procedures in respect of a business relationship formed with or a transaction carried out by that institution in the course of its business as may be required by the Central Bank.

The Central Bank issued ***Guidance Notes on Anti Money Laundering Procedures for Seychelles Banks and other Financial Institutions*** in March 1998. Reports of suspicious transactions are reported to the Banking Supervision Department of the Central Bank. These reports are analysed by officials at the Central Bank and then forwarded to the Police for further investigation and prosecution if warranted. The Central Bank is able to monitor compliance with the Anti-Money Laundering Act and the Guidelines by on-site inspections of financial institutions.

The Guidelines further provide for training of employees of financial institutions in identification and record keeping procedures and emphasises the obligation to make reports to the Central Bank.

The Central Bank of Seychelles is a member of the Eastern and Southern African Group of Banking Supervisors and adopts the guidelines established by the Basle Committee. As members of this association Central Banks in the region cooperate in the exchange of information on supervisory and regulatory issues.

The Central Bank disseminates list of names of suspected terrorists and the US Executive Orders to all financial institutions with a directive for them to check their records of account holders and report any relationship to the Central Bank. To date there has been no report of alleged terrorists holding bank accounts or other facilities in Seychelles.

Financial institutions have been defined in the **Financial Institutions Act** as "any person doing banking business; or (b) a person declared to be a financial institution under section 58 (3) of the Financial Institutions Act." No person has been declared to be a financial institution under section 58(3) to date. Banking business has been given its ordinary meaning of the business of accepting deposits of money from the public...etc.

Financial institutions in Seychelles may be licensed to conduct non-domestic banking business and with prior approval from the Central bank a financial institution carrying on non-domestic banking business may be administered by another financial institution. Non-domestic banking business has been defined as banking business conducted outside Seychelles with persons resident outside Seychelles.

A financial institution exclusively conducting non-domestic business may authorise a person to open a numbered account. Facilities offered to the holders of a numbered account shall extend to current accounts, deposit accounts, securities deposit accounts and safes but shall not extend to credit facilities. A financial institution shall ensure that the identity of the holder of a numbered account is disclosed to only such officers of the institution as the institution may determine. The identity, assets, liabilities transactions or other information of the holder of the numbered account shall, however, be disclosed to the Central Bank or on an order of the Supreme Court made for the purpose of any enquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, **arms trafficking** or money laundering on application by the Attorney General on proof to the satisfaction of the court that the information relating to the identity, assets, liabilities and transactions of the holder is bona fide so required.

A financial institution or any other person who contravenes this section is guilty of an offence and liable on conviction to a fine of R100, 000 and to imprisonment for 3 years.

Certain safeguards exist to protect financial institutions doing non-domestic business from being used by terrorists. Section 44A(3) of The Financial Institutions Act provides that a financial institution conducting non-domestic banking business, shall not, in the conduct of its non-domestic banking business, open an account for a person whose identity is not known to the financial institution.

Further, even though section 38A of the Financial Institutions Act imposes secrecy and confidentiality provisions with respect to the non-domestic banking business of financial institutions the Supreme court may make an order for the production or disclosure to any court, tribunal, committee of inquiry or other authority in Seychelles or elsewhere on an application to that court by the Attorney General and on proof that information is bona fide required for the purposes of any enquiry or trial into or relating to the trafficking of narcotic and dangerous drugs, **arms trafficking** or money laundering.

Application may also be made to the Supreme Court for an order for disclosure of the identity, assets, liabilities, transactions or other information in respect of a depositor of a financial institution doing domestic banking business in Seychelles.

There has been no application made to the Supreme Court for any production orders in relation to any funds of alleged terrorists.

Another safeguard against the use of financial institutions by terrorists is found in the **Financial Institutions (Non-Domestic Banking Business) Regulations** and **the Financial Institutions (Domestic Banking Business) Regulations**. Both these regulations provide that where a financial institution conducting domestic banking business or non-domestic banking business, as the case may be, has reasonable grounds to believe that any holder of any account with that institution or any other person transacting business with that institution is conducting business affairs which are or are likely to be contrary to the laws of Seychelles or are or are likely to be detrimental to the reputation of Seychelles, the financial institution shall forthwith notify in writing that fact to the Central Bank and furnish the Central Bank the full particulars thereof known to the financial institution.

There are six (6) financial institutions licensed to conduct domestic banking business in Seychelles and no financial institution licensed in Seychelles to conduct non-domestic banking business.

Financial institutions in Seychelles have an obligation to inform the Central Bank of any change in the shareholder, officers and directors within twenty days of any change in any financial institution.

Financial institutions conducting domestic banking business or non-domestic banking business must not issue bearer shares and any company that is a shareholder of the financial institution shall not issue bearer shares.

The Central Bank under the provisions of the **Central Bank Act Cap 26** has the power to require any director to furnish to the Central Bank such data and other information as are necessary to perform its functions under the Act. The Central Bank may conduct inspections of financial institutions for the purpose of ascertaining the nature of the business of the financial institution and to ascertain whether the financial institution is complying with the provisions of the Act and any directives issued by the Bank.

The Registrar of Companies regulates client accounts held by accountants, attorneys, barristers and estate agents pursuant to the **Control and Protection of Clients Accounts Act Cap 44**. These persons have an obligation to keep books and accounts as may be necessary to show and distinguish in connection with his business, moneys received from or on account of his clients and the monies received and paid out on account. The books of the accountant, attorney, barrister and estate agents are audited annually.

The Registrar of Companies acting on his own motion, may require the accountant, attorney, barrister or estate agent to produce his books of accounts, bank statements, statements of account, vouchers and other necessary documents for inspection by the Auditor General. This provision may be used to inspect the books of the accountants, attorney, barristers or estate agents when there is suspicion of funds being lodged in these accounts by persons suspected of being involved in terrorism. The penalty for failing to comply with a request of the Registrar is a fine of RS10,000 and imprisonment for five years.

The International Business Companies Act provides for the establishment of international business companies (IBCs). The Seychelles International Business Authority (SIBA) established pursuant to **the Seychelles International Business Authority Act 1994** supervises and regulates the international business companies.

One of the functions of SIBA is to ensure that the international business activities are transacted in conformity with the laws of Seychelles and established norms of good and honourable conduct and to preserve and maintain the good reputation of Seychelles as a centre for international business activities.

International business companies operating in the Seychelles are able to issue shares to bearer. Bearer shares are under review, in compliance with the OECD undertaking in relation to information exchange agreements. The share register is kept at the registered office of the company.

There are at present twelve thousand three hundred (12,300) international business companies operating in Seychelles.

International Trusts have also been established in Seychelles by the **International Trust Act, 1994.** Trustees of international trusts may open an account at a financial institution.

A trustee of an international trust shall not disclose to any person not legally entitled, or be required to produce or divulge to any court, tribunal. committee of enquiry or other authority in Seychelles or elsewhere any information which discloses, inter alia, the name of the
settlor or of any beneficiary.

There is also a provision in the International Trust Act for the court to make an order for disclosure or production of any information or document relating to an international trust for the purpose of an inquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, **arms trafficking**, or money laundering on application by the Attorney General on proof to the satisfaction of the court that the information or document is bona fide so required.

The provisions of the Financial Institutions Act and the Guidelines issued by the Central Bank with respect to the verification of identity of account holders also applies to accounts opened by international business companies and by trustees of international trusts.

As some of the information required for international business companies may not be available the registered agent applying for an account for an international business company would be asked to certify that the applicant is known to him and that the applicant has presented adequate evidence of proper conduct to the registered agent. If the registered agent is in fact a signatory on the account particulars with respect to the registered agent would have to be verified.

In the case of an account being opened by the trustee of an international trust, the financial institution must obtain satisfactory evidence of the identity of the trustee, nominee or fiduciary and the nature of their trustee or nominee capacity or duties. The financial institution must be able to confirm that the source of funds or assets under the trustee's control can be vouched for. As the trustee is unable by law to disclose the identity of the settlor or beneficiary any money received by the trust must be properly identified, the nature of the transaction understood and confirmation made that the payments are made in accordance with the terms of the trust and are properly authorized in writing.

The Exchange Control Act Cap 76 allows the Central Bank of Seychelles to track the existence of foreign currency in Seychelles. Under the provisions of the Exchange Control Act only a bona fide tourist shall have foreign currency in his possession.

Additionally by the **Foreign Earnings (Regulation) Act 1996** as amended payment of services provided by a hotel, guesthouse or other self-catering establishment shall be made in foreign currency only. Incidental purchases are payable in local currency. The exchange of foreign currency may only be made at banks or financial institutions, authorized money dealers at the Seychelles International Airport or with cashiers in hotels.

Every person who engages in any trade, business or activity with a non–resident shall keep such accounting and other records as would sufficiently explain the transaction with the non-resident and shall cause the records to be kept in such a manner as may be directed by the Central Bank.

The Central Bank has the power to cause an inspection of the accounting and other records of any person who engages in any trade business or activity with a non-resident to ascertain whether that person is complying with the provisions of the Act.

The Central Bank also has the power to require any director, officer or employee of any bank or any other financial institution to furnish to the Central Bank such information and data as may be required. The Central Bank may periodically or at its discretion cause an inspection of the books and accounts of the financial institution to ensure compliance with the provisions of the Act.

Persons who are not resident in Seychelles would not be able to open a bank account in local currency, unless special provision is obtained from the Central Bank.

The provisions listed above would assist the Government of Seychelles in preventing and suppress the financing of terrorist acts in Seychelles.

A draft Anti-Terrorism Bill is being prepared by the Department of Legal Affairs. This Bill once enacted would criminalise the financing of terrorism and other related matters. The Bill, presently being drafted is adopting the model legislation on measures to combat terrorism provided by the Commonwealth Secretariat with appropriate modifications.

The Bill is expected to receive Presidential assent and legislative ratification before the close of 2003.

PARAGRAPH 1
(B). CRIMINALIZE THE WILFUL PROVISION OR COLLECTION, BY ANY MEANS, DIRECTLY OR INDIRECTLY OF FUNDS OF THEIR NATIONALS, OR IN THEIR TERRITORIES WITH THE INTENTION THAT THE FUNDS SHOULD BE USED, OR IN THE KNOWLEDGE THAT THEY ARE TO BE USED, IN ORDER TO CARRY OUT TERRORIST ACTS

When enacted the draft Anti-Terrorism Bill shall include these provisions.

PARAGRAPH 1
(C). FREEZES WITHOUT DELAY FUNDS AND OTHER FINANCIAL ASSETS OR ECONOMIC RESOURCES OF PERSONS WHO COMMIT OR ATTEMPT TO COMMIT, TERRORISTS ACTS OR PARTICIPATE IN OR FACILITATE THE COMMISSION OF TERRORIST ACTS; OF ENTITIES OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PERSONS, AND OF PERSONS AND ENTITIES ACTING ON BEHALF OF, OR AT THE DIRECTION OF SUCH PERSONS OR ENTITIES, INCLUDING FUNDS DERIVED OR GENERATED FROM PROPERTY OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PERSONS AND ASSOCIATED PERSONS AND ENTITIES

There is no specific provision for freezing funds of terrorists but there are provisions for the freezing of funds that are derived from the proceeds of crime.

However, under the provisions of the **Criminal Procedure Code Cap 54** a police officer may search persons arrested and place in safe custody all articles found upon that person. Police officers also have the power where there is responsible suspicion that a crime has been committed or where there is an investigation into any offence to seize goods and carry the goods to the court to be dealt with. If the person is convicted application would be made to the court for the forfeiture of the goods. This method may be used by police officers to freeze and confiscate assets and other financial resources of terrorists.

If financial assets or other economic resources of persons suspected to be terrorists is found in Seychelles, the Attorney General, under the Civil Procedure Rules of the Court may make application for an injunction (Mareva) against the financial assets or other resources of an alleged terrorist. This application for an injunction is a civil remedy that is available to assist the Government of Seychelles in freezing the funds of terrorists. No such application has been made to date.

The Anti Money Laundering Act 1996, provides for the restraining and forfeiture of any money or property relating to the offence of money laundering.

Funds may be restrained where a police officer investigating an offence of money laundering has reasonable grounds to believe that any money or property relating to such offence is held or is under the control of any person. An application is made to a magistrate ex parte. Where a person is convicted of an offence of money laundering and the court is satisfied that the person has derived obtained or realised, directly or indirectly, property from the commission of the offence the court may, on the application of the Attorney General make an order of forfeiture in respect of that property. Property is defined as immovable or movable property of every description, whether tangible or intangible and includes an interest in any movable and immovable property.

The Anti-Money Laundering Act also provides for monitoring orders and confiscation of proceeds after a person is convicted of an offence of money laundering and the court is satisfied that the person has derived his property from the commission of an offence. The Attorney General makes an application for forfeiture.

In addition to the provisions for freezing in the Anti-Money Laundering Act, regulation 6 of the Financial Institutions (Domestic Banking Business Regulations and regulation 6 of the Financial Institutions (Non-Domestic Banking Business) Regulations provides for the reporting to the Central Bank and furnishing full particulars of any holder of an account where the financial institution has reasonable grounds to believe that the holder of the account is conducting business affairs which are likely to be contrary to the laws of Seychelles or are likely to be detrimental to the reputation of Seychelles. This provision can be applied to suspected terrorist funds.

The Anti-Terrorism Bill when enacted would make provision for the freezing of funds and other financial assets or economic resources of persons who commit terrorist acts.

PARAGRAPH 1
(D). PROHIBITS THEIR NATIONALS AND ENTITIES WITHIN THEIR TERRITORIES FROM MAKING ANY FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES OR FINANCIAL OR OTHER RELATED SERVICES AVAILABLE, DIRECTLY OR INDIRECTLY, FOR THE BENEFIT OF PERSONS WHO COMMIT OR ATTEMPT TO COMMIT OR FACILITATE OR PARTICIPATE IN THE COMMISSION OF TERRORIST ACTS, OF ENTITIES OWNED OR CONTROLLED DIRECTLY OR INDIRECTLY, BY PERSONS AND OF PERSONS AND ENTITIES ACTING ON BEHALF OF OR AT THE DIRECTION OF SUCH PERSONS

The Guidance Notes issued by the Central Bank of Seychelles in 1998 on Anti-Money Laundering Procedures would assist the Government of Seychelles in prohibiting their nationals and entities from making any funds available for the benefit of persons who commit or attempt to commit terrorist acts.

Financial institutions must know their prospective customers at the opening of an account or entering into a business relationship. Financial institutions must also be aware of the source of funds. Financial institutions must retain the supporting evidence and records for a period of at least five years. These records should contain information on the beneficial owner of the account, the volume of funds flowing through the account, the origin of the funds, the form in which the funds were offered or withdrawn, the

identity of the person undertaking the transaction, the destination of the funds and the form of instructions or authority.

Special consideration has been recommended with respect to wire transfers and where customer transfers are made. The fields for the ordering and beneficiary customers should be completed with their names and addresses. Ordering customers are also encouraged to include names and addresses of beneficiary and the sender on all transfers made by electronic means.

A financial institution is not allowed to open an account unless they know the identity of the account holder.

A report should be filed with the Central Bank where the transaction is inconsistent with the customer's known legitimate business or personal activities.

The Registrar General registers all Charitable and other Non-Profit Organizations and liaison with these organization falls under the portfolio of the President of Seychelles. In opening accounts at financial institutions, the obligation is put on the financial institution to satisfy itself of the legitimate purpose of the organization and should receive copies of the constitution of the organization. The identity of the signatories of the account must be verified.

PARAGRAPH 2. DECIDES ALSO THAT ALL STATES SHALL:
(A). REFRAIN FROM PROVIDING ANY FORM OF SUPPORT, ACTIVE OR PASSIVE, TO ENTITIES OR PERSONS INVOLVED IN TERRORIST ACTS, INCLUDING BY SUPPRESSING RECRUITMENT OF MEMBERS OF TERRORIST GROUPS AND ELIMINATING THE SUPPLY OF WEAPONS TO TERRORISTS

There is no evidence of the presence of terrorists or terrorist connections in Seychelles.

The Constitution of Seychelles guarantees the freedom of conscience, freedom of expression and freedom of assembly and association subject to the interest of defence, public safety, public morality, or public health. The Public Order Act prohibits the holding of public meeting or public procession without a permit from the Commissioner of Police. The Act further prohibits any quasi-military organization (an association of persons organized or trained or equipped for the purpose of enabling them to be employed in such a manner that such employment usurps or tends or appears to usurp the functions of the police or of the armed forces of the Republic) and any person who takes part in the control or management of such an organization or in so organizing or training shall be guilty of an offence and is liable to a fine of five thousand rupees and to imprisonment for five years.

Whenever the President, is of the opinion that it is necessary in the interests of national security or public safety for the prevention of disorder or crime he may by order prohibit any public meetings or public processions and the use of loudspeakers from vehicles for the diffusion of speeches to the public.

There is no automatic right to bear arms in Seychelles. **The Firearms and Ammunitions Act Cap 80** prohibit the purchase and possession of firearms without a licence. The penalty for possession of firearms or ammunition without a licence is imprisonment for one year of a fine of RS 2000.

Section 84 of the Penal Code Cap 158 provides an offence for possession or control of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive in circumstances which raise a reasonable presumption that such firearm, offensive weapon, ammunition, incendiary material or explosive is intended to be used in a manner or for a purpose prejudicial to public order.

An offence is also committed by any person who consorts with or is found in the company of another person who in contravention of subsection (1)...in circumstances which raise a reasonable presumption that he intends to act or has recently acted with such other person in a manner and for a purpose prejudicial to public order.

Further an offence is committed by any person who...knowingly negotiates, procures arranges for, or is in any way concerned in or assists in the delivery to any person to any other person of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, whether by way of sale, hire, gift. loan, or otherwise in circumstances which raised a reasonable presumption that he knew or believed that such firearm offensive weapon, ammunition, incendiary material or explosive was intended or likely to be used by any person in a manner or for a purpose prejudicial to public order.

Any person guilty of these offences is liable to imprisonment for seven or five years.

Ammunition, explosives, firearms, incendiary material and offensive weapon have been defined.

The Explosives Act Cap 77 defines explosives as gunpowder, nitro-glycerine, dynamite, gelignite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those herein mentioned or not, which is used or manufactured with a view to produce a practical effect by explosion; or any fuse, rocket, detonator or cartridge, and every adaptation or preparation of an explosive. The Act prohibits the manufacture, import, selling dealing in or otherwise disposing of explosives without a permit. The penalty for breach of these provisions is a fine of two thousand rupees and imprisonment for three years and the forfeiture of the explosives.

There are also further restrictions on the purchase or acquisition of explosives; the storage of explosives; the conveyance of explosives; and the possession or use of explosives. The penalty for breach of these provisions range from a fine of one thousand rupees and imprisonment for one year to a fine of three thousand rupees and imprisonment for five years.

Seychelles has signed and ratified the United Nations Convention on Transnational Organised Crime. The Three Optional Protocols are being reviewed by the Government of Seychelles to determine whether they would accede to and ratify these Protocols. The Third Protocol specifically deals with the illicit manufacture, sale and trafficking in firearms

Under the Financial Institutions Act, the identity, assets, liabilities transactions or other information of the holder of the numbered account shall be disclosed to the Central Bank or on an order of the Supreme Court made for the purpose of any enquiry or trial into or relating to the tr. fficking of narcotics and dangerous drugs, **arms trafficking** or money laundering on application by the Attorne, General on proof to the satisfaction of the court that the information relating to the identity, assets, liabilities and transactions of the holder is bona fide so required.

Further, even though section 38A of the Financial Institutions Act imposes secrecy and confidentiality provisions with respect the the non-domestic banking business of financial institutions the Supreme court may make an order for the production or disclosure to any court, tribunal, committee of inquiry or other authority in Seychelles or elsewhere on an application to that court by the Attorney General and on proof that information is bona fide required for the purposes of any enquiry or trial into or relating to the trafficking of narcotic and dangerous drugs **arms trafficking** or money laundering.

PARAGRAPH 2
(B). TAKE THE NECESSARY STEPS TO PREVENT THE COMMISSION OF TERRORIST ACTS, INCLUDING BY PROVISION OF EARLY WARNING TO OTHER STATES BY EXCHANGE OF INFORMATION

The Police Force in Seychelles works closely with INTERPOL and other international law enforcement agencies and would receive and exchange any information on the commission of terrorist acts in Seychelles.

The Police Force in Seychelles is responsible for the Immigration Department and the Transportation Securities Services at the airport and the seaport. There is no evidence of any terrorists entering Seychelles either through the airport or the seaport. The Coast Guard Services patrol the territorial waters around Seychelles for ships illegally entering Seychelles, ships cruising without permit and monitoring of fishing vessels around Seychelles. The Police Department does not posses any boats that are capable of conducting these patrols.

The Commissioner of Police holds regular conferences with the United States Naval Criminal Investigation Services to discuss international security issues.

The Police Commissioner is a member of the Eastern African Police Chiefs Committee and the Southern African Police Chiefs Association. These associations meet annually to discuss security, drug trafficking and related issues of interest to the region. There is enhanced cooperation with the Police Commissioner in Kenya as a result of the incidents of drug trafficking between the two countries.

Police Officers in Seychelles are investigating allegations of money laundering in Seychelles but have to rely on the Central Bank for assistance in these investigations.

There is an inter-agency group consisting of the Police, Customs, Immigration, Health and the Department of Civil Aviation. This group meets quarterly or more often when there is a need. This group deals with matters of national security as it affects Seychelles.

PARAGRAPH 2
(C). DENY SAFE HAVEN TO THOSE WHO FINANCE, PLANS, SUPPORT, OR COMMIT TERRORIST ACTS, OR PROVIDE SAFE HAVENS

The Anti-Terrorism Bill when enacted will make the harbouring of persons who committed terrorist acts an offence.

In the meantime the Immigration Act provides for persons to be declared as prohibited immigrants. The Director of Immigration has the responsibility for landing persons at the two ports of entry in Seychelles, at the International Airport and at the Seaport. At least one half of the complement of immigration officers is stationed at the airport. Immigration officers are stationed at the seaport when cruise passenger ships are scheduled to visit.

The Director of Immigration is advised through the Attorney General and the Ministry of Foreign Affairs of the list of suspected terrorists as they are released. These lists are given to the officers at the airport who have a duty to scrutinize these lists before landing individuals. There has been no attempt to enter Seychelles by any of the persons named on the lists produced by the United Nations or through the Executive Orders issued by the President of the United States.

As there are no non-domestic banks in Seychelles it is difficult for terrorist funds to be lodged in financial institutions in Seychelles. Any deposits made in the domestic banks are subject to the strict Know your Customer (KYC) imposed by the Central Bank. A deposit of funds can only be accepted

when the financial institution is aware of the identity of the customer and the source of funds. Compliance with these rules is monitored by the Central Bank in their on-site inspections.

PARAGRAPH 2
(D). PREVENT THOSE WHO FINANCE, PLAN, SUPPORT OR COMMIT TERRORIST ACTS FROM USING THEIR RESPECTIVE TERRITORIES FOR THOSE PURPOSES AGAINST OTHER STATES OR THEIR CITIZENS

The proposed new Anti-Terrorism Act would extend terrorism to acts committed in or outside Seychelles. At present if there is evidence of conspiracy with persons resident in Seychelles, charges may be brought against those individuals in Seychelles if it can be proved that they conspired to commit criminal acts in another country.

The provisions of the Financial Institutions Act and regulations referred to at paragraph 2(a) above would prevent Seychelles being used in the financing of terrorist activities.

Please refer to paragraph 2 (c) above for information with respect to persons being denied entry to Seychelles.

PARAGRAPH 2
(E). ENSURE THAT ANY PERSON WHO PARTICIPATES IN THE FINANCING, PLANNING OR PERPETRATION OF TERRORISTS ACTS OR IN SUPPORTING TERRORIST ACTS IS BROUGHT TO JUSTICE AND ENSURE THAT, IN ADDITION TO ANY OTHER MEASURES AGAINST THEM, SUCH TERRORIST ACTS ARE ESTABLISHED AS SERIOUS CRIMINAL OFFENCES IN DOMESTIC LAWS AND REGULATIONS AND THAT THE PUNISHMENT DULY REFLECTS THE SERIOUSNESS OF SUCH TERRORIST ACTS

The draft Anti Terrorism Bill, when enacted would ensure that any person who participates in the planning or perpetration of terrorist acts, and found guilty would be imprisoned for terms ranging from 10 years to life imprisonment.

Criminal acts that may be committed by terrorists are criminal offences in Seychelles and are severely punished. Under the Penal Code provision is made for the following offences —

- Possession of a firearm or other offensive weapon, ammunition, incendiary material or explosive — seven years;
- Murder — imprisonment for life;
- Attempt to murder — imprisonment for life;
- Suicide pact (manslaughter) — imprisonment for life;
- Attempt to injure by explosive substance — fourteen (14) years;
- Maliciously administering poison with intent to harm — fourteen (14) years;
- Unlawful wounding or unlawfully with intent to injure or annoy any person causes any poison or other noxious thing to be administered or taken by a person — seven (7) years;
- Dealing in poisonous substance in a negligent manner — six months or a fine of RS 1,000;
- Kidnapping — seven (7) years;
- Kidnapping or abducting in order to murder — ten (10) years;
- Hijacking — imprisonment for life.

Under the Firearms and Ammunition Act Cap 80 no person shall purchase, acquire or have in his possession any firearm or ammunition unless he is in possession of a licence issued by the Licensing Authority. In granting a licence the Licensing Authority must be satisfied that the applicant has a good reason for purchasing the firearm and that the applicant can be permitted to have in his possession

such firearm without danger to the public safety or to the peace. There are few firearm licences issued to private citizens in Seychelles.

PARAGRAPH 2
(F). AFFORD ONE ANOTHER THE GREATEST MEASURE OF ASSISTANCE IN CONNECTION WITH CRIMINAL INVESTIGATIONS OR CRIMINAL PROCEEDINGS RELATING TO THE FINANCING OR SUPPORT OF TERRORIST ACTS, INCLUDING ASSISTANCE IN OBTAINING EVIDENCE IN THEIR POSSESSION NECESSARY FOR THE PROCEEDINGS

In criminal investigations the Commissioner of Police collaborates with INTERPOL and other regional Police Organizations to combat global criminal activities. Additionally the Commissioner of Police meets with officials from the United States Naval Criminal Investigation Services to discuss matters of mutual concern.

The Mutual Legal Assistance Act, 1995 makes provisions for the purposes of implementing the Commonwealth Scheme relating to Mutual Assistance in Criminal Matters and to make provision with respect to mutual assistance in criminal matters between Seychelles and a foreign country other than a Commonwealth country.

The Act however does not restrict other forms of cooperation between Seychelles and a foreign country jurisdiction or organization.

This Act applies to all Commonwealth countries and in the case of a foreign country other than a Commonwealth country, where there is a treaty for bilateral mutual legal assistance in criminal matters between Seychelles and the foreign country or for the purpose of giving effect to an international treaty of which Seychelles and the foreign country are parties, or any other foreign country specified by regulations.

In addition to assisting foreign countries to obtain evidence and production of documents or other things the Central Authority may accede to requests from foreign countries for search and seizure.

There is no Mutual Legal Assistance in Criminal Matter Treaties with any country.

The Government of Seychelles assist foreign countries in obtaining documents that are public records. Additionally the Police receive and accede to requests for information through INTERPOL.

The Central Authority of Seychelles has not received any request from any Commonwealth country of from any foreign country to obtain evidence or for the production of documents or things with respect to acts of terrorism or alleged to be used in the financing of terrorism.

The Extradition Act restricts extradition to offences set out in the first Schedule of the Act. Terrorism or terrorist related acts are not included. The proposed Anti-Terrorism Act would amend the Extradition Act to include offences under that Act to be extraditable offences. There is also at present a restriction to extradition on the grounds that the offences are of a political character or offences on account of race, religion, nationality or political opinion. It is proposed to amend the Extradition Act to remove these restrictions.

Seychelles at present has an extradition treaty with the United Kingdom only. The Ministry of Foreign Affairs is presently reviewing the pre independence UK/USA Extradition Treaty with a view to its reinstatement for application to the United States.

PARAGRAPH 2
(G). PREVENT THE MOVEMENT OF TERRORISTS OR TERRORIST GROUPS BY EFFECTIVE BORDER CONTROLS AND CONTROLS ON ISSUANCE OF IDENTITY PAPERS AND TRAVEL DOCUMENTS AND THROUGH MEASURES FOR PREVENTING COUNTERFEITING, FORGERY OR FRAUDULENT USE OF IDENTITY PAPERS AND TRAVEL DOCUMENTS

The Immigration Act Cap 93 governs entry into Seychelles. Any person entering Seychelles must be cleared by an immigration officer and must produce a passport and state the object of his entry into Seychelles. If a person is considered a prohibited immigrant that person shall not be permitted to enter Seychelles.

A prohibited immigrant may be a person who has been sentenced in any country to a term of imprisonment following on his conviction for an offence and has not received a free pardon; or in the opinion of the Director is not of good character. Additionally any person whose presence in Seychelles is declared in writing by the Minister to be inimical to the public interest is deemed to be a prohibited immigrant. The persons who has been named as terrorists on the UN Security Council Lists and the list produced in the Executive Orders of the President of the United States have been given to the Director of Immigration and these persons would be considered prohibited immigrants and not allowed to enter Seychelles.

Under **the Passport Act Cap 155**, passports are issued to citizens of Seychelles. The application form for the passport must be countersigned by a person who has known the applicant personally for at least two years who is either an Member of the People's Assembly, a Member of the Central Executive Committee of the People's Progressive Front, a Judge, a Magistrate, a Barrister, an Attorney at law, a Notary Public, a Public Servant not below the Head of a Division, a Police Officer not below the rank of Assistant Superintendent, an army Officer not below the rank of Captain, a registered medical practitioner, a Minister of Religion or a Justice of the Peace. The onus is on the applicant to establish his identity and citizenship.

Citizens of Seychelles possess identity cards and these cards must be presented with the application for a passport.

A passport officer shall not issue or renew a passport where he reasonably believes that any information or statement contained in the application is false or misleading. A passport may also not be issued where the departure of the applicant from Seychelles is or was in breach of any international obligation of the Government. A passport officer may at any time seize and detain a passport where, he reasonably believes that the passport or its renewal has been obtained by a false or misleading statement or representation or any entry in the passport is false or has been inserted as a result of a false or misleading statement or representation, or the passport contains a fraudulent entry; or the photograph in the passport does not correspond to the likeness of its holder, or the passport is in the wrongful possession of any person or the passport has been stolen. Additionally where a passport officer believes that a person is in unlawful possession of a passport or that a person has in his possession a passport, or a passport containing nay endorsement, which has been obtained by a false or misleading statement or representation, he may by notice in writing require the person to deliver the passport to him within the time specified in the notice.

A person commits an offence if he forges any passport, certificate of identity or travel document; makes any fraudulent entry or fraudulently erases, fixes or removes anything in, upon or from any passport, certificate of identity or travel document; has in his possession a passport or certificate of identity or travel document which has been forged or containing a fraudulent entry or in upon, or from which anything has been fraudulently erased, fixed or removed; uses a passport, certificate of identity or travel document which has been issued to another person; for the purposes of obtaining a passport, certificate of identity or travel document, or obtaining the renewal or endorsement of any passport , makes any false or misleading statement or representation; refuses to deliver a passport, certificate of identity or travel document which has been cancelled or within the time required by the passport officer;

uses a passport, certificate of identity or travel document which has been cancelled; or being a person to whom a passport, certificate of identity or travel document has been issued, without reasonable excuse permits another person to use the passport, certificate of identity or travel document.

The penalty for the offences listed above range from 1 year, 2 years and 7 years.

Passports issued by the Government of Seychelles are machine-readable and have certain security features that make them difficult to forge. The Government is endeavouring to use digital imaging for pictures in the passports in the near future. Negotiations are now in progress to obtain the necessary equipment to produce the digital pictures, subject to budgetary constraints.

The printing and storage of passports are done in a secure environment and there is no record of passports being stolen from the Department of Immigration.

Where a person produces false passport to an immigration officer or where the immigration officer suspects that the passport has been tampered with or altered in any way the passport is held, an investigation is conducted and if it is discovered that the passport is false the person is deported. There has not been any recent case of persons presenting false passports to the immigration officer at the airport or cases of passports belonging to a citizen of Seychelles being reported stolen and fraudulently altered.

Information of false passports and other fraudulent identity documents are shared with immigration officers in other countries, especially those countries in the region. Where a person is ordered deported from Seychelles and considered to be a security threat this information is forwarded to all the airlines servicing Seychelles. Heads of Immigration in the region exchange information on passport fraud and typologies for fraudulent passports.

There are only two ports of entry in Seychelles, the International Airport and the Seaport in Mahe Island. These ports are manned by uniformed immigration and customs officers as well as police officer who process passengers baggage and cargo. All baggage of arriving passengers is X-rayed by police officers and security officers who indicate to customs officers if any baggage appear suspicious and warrant search. Where any baggage of any passenger contains firearms or any other prohibited goods these persons are turned over to the police for prosecution. Passengers leaving Mahe are subject to search and X-ray of baggage by the Aviation Security officers of the Transportation Security Division.

The seaport deals mostly with cargo on ships and in containers but there are between five or six cruise passenger ships coming into port in Mahe every year. Most of these passenger cruises are a part of organized vacations to Nairobi for safaris and then a cruise to the Seychelles Islands. Each cruise ship has approximately three to four hundred passengers.

There are no facilities at the seaport to X-ray containers coming into Seychelles. All containers are searched as a matter of course, with an additional random search procedure adopted. Customs officers conducting searches of containers and cargo at the port have discovered drugs and other undeclared items but have not discovered any arms, ammunition or explosives that may be used in a terrorist attack.

Yachts sailing the Seychelles must stop at Mahe for the purpose of clearing customs and immigration and obtaining approval to cruise among the Seychelles Islands. The coast guard patrol monitors these yachts between the islands.

The Seychelles International Airport at Mahe operates in conformity with the relevant regulations and guidelines of the International Civil Aviation Organization (ICAO). The Government of Seychelles review the Federal Aviation Authority and the UK Civil Aviation Regulations for relevance. However, in

ongoing efforts to maintain and strengthen airline and airport security the Government of Seychelles largely implement aviation procedures and regulations adopted by the European Union.

In 1997 a Transport Security Department was established under the Police to deal with all security issues at the airport and the sea port. Aviation security officers travel on some scheduled airlines to monitor the situation.

Customs officials in Seychelles are members of the World Customs Organization and the following regional organizations —

- the Southern African Development Community;
- the Common Market for Eastern and Southern Africa;
- the Indian Ocean Commission; and the
- Indian Ocean Rim Association.

Membership in these organizations enables the Comptroller of Customs to exchange information on matters of international and regional customs concern.

There has been no record of any arms or ammunition entering Seychelles through the airport or seaport.

PARAGRAPH 3. CALLS UPON ALL STATES TO:
(A). FIND WAYS OF INTENSIFYING AND ACCELERATING THE EXCHANGE OF OPERATIONAL INFORMATION ESPECIALLY REGARDING ACTIONS OF MOVEMENTS OF TERRORIST PERSONS OR NETWORKS; FORGED OR FALSIFIED TRAVEL DOCUMENTS; TRAFFIC IN ARMS, EXPLOSIVES OR SENSITIVE MATERIAL; USE OF COMMUNICATION TECHNOLOGIES BY TERRORIST GROUPS; AND THREATS POSED BY THE POSSESSION OF WEAPONS OF MASS DESTRUCTION BY TERRORIST GROUPS

A National Security Committee has been established by the Cabinet and headed by the President of Seychelles and consists of members of Cabinet and other persons co-opted from time to time. This Committee considers matters of national security. As terrorism and the financing of terrorism are matters of national and international concern these matters are considered by the Committee.

There is also a Security Unit at the Ministry of Foreign Affairs which considers all security matters and advises the Presidential Committee. The Security Unit comprises officials from the Ministry of Foreign Affairs, the Attorney General's Office, the Police, Transportation Authority, Defence Force, Coast Guard, Port Authority and the Department of Civil Aviation.

The Government of Seychelles is continuing discussions with all partners regionally and internationally to improve information sharing and investigative methods to deal with the new and emerging threat posed by terrorism, the financing of terrorism and possession of weapons of mass destruction by terrorist groups.

The Police, by making application to the Supreme Court may insert devices on telephones to listen to conservations. This procedure is rarely used and police intelligence has not indicated any present need for any application to be made with respect to persons allegedly involved in criminal activities.

PARAGRAPH 3
(B). EXCHANGE INFORMATION IN ACCORDANCE WITH INTERNATIONAL AND DOMESTIC LAW AND COOPERATE ON ADMINISTRATIVE AND JUDICIAL MATTERS TO PREVENT THE COMMISSION OF TERRORIST ACTS

See response under 2(f) above.

PARAGRAPH 3
(C). COOPERATE, PARTICULARLY THROUGH BILATERAL AND MULTILATERAL ARRANGEMENTS AND AGREEMENTS, TO PREVENT AND SUPPRESS TERRORIST ATTACKS AND TAKE ACTION AGAINST PERPETRATORS OF SUCH ACTS

Seychelles is a small country and therefore places reliance on its bilateral and multilateral relations with other countries to assist it in the fight to prevent and suppress terrorist attacks and take action against the perpetrators of such acts. Seychelles is a member of the United Nations, and the Eastern and Southern Africa Anti-Money Laundering Organization, the FATF styled regional organization. These organizations are all concerned with preventing and suppressing the financing of terrorism. The Eastern and Southern African Anti-Money Laundering Group has adopted the FATF 40 Recommendations on Money Laundering and recently has adopted the FATF 8 Special Recommendations on Terrorism Financing.

Seychelles is a party to seven (7) of the United Nations Counter Terrorism Conventions. The Anti-Terrorism Bill when enacted will incorporate the provisions of those conventions.

PARAGRAPH 3
(D). BECOME PARTIES AS SOON AS POSSIBLE TO THE RELEVANT INTERNATIONAL CONVENTIONS AND PROTOCOLS RELATING TO TERRORISM, INCLUDING THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM OF 9 DECEMBER 1999

The Republic of Seychelles is a party to the following international conventions and protocols relating to terrorism —

(i) Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963;
(ii) Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;
(iii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;
(iv) Convention on the prevention and Punishment of Offences against Internationally Protected Persons, Including Diplomatic Agents, 1973;
(v) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988;
(vi) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms Located on the Continental Shelf, 1988;
(vii) International Convention For the Suppression of the Financing of Terrorism, 1999.

The other conventions namely –

(i) The International Convention Against the Taking of Hostages, 1979;
(ii) Convention on the Physical Protection of Nuclear Material, 1979;
(iii) Convention on the Marking of Plastic Explosives for the Purposes of Detection, 1991;

(iv) International Convention for the Suppression of Terrorist Bombings, 1999;

are all under active consideration by the Cabinet of Seychelles.

Additionally Seychelles has recently ratified the International Convention against Transnational Organized Crime and is reviewing the three Protocols to the Convention for accession and ratification.

Seychelles is a member of the Organization of African Unity (OAU). The OAU recently implemented a Convention on the Prevention and Combating of Terrorism. The Government of Seychelles is actively reviewing accession and ratification of this Convention.

PARAGRAPH 3
(E). INCREASE COOPERATION AND FULLY IMPLEMENT THE RELEVANT INTERNATIONAL CONVENTIONS AND PROTOCOLS RELATING TO TERRORISM AND SECURITY COUNCIL RESOLUTIONS 1269 (1999) AND 1368 (2001)

The Government of Seychelles will continue to cooperate with other states in combating terrorism. The Government has ratified the UN International Convention for the Suppression of Terrorism and shall soon pass legislation to criminalise terrorism, terrorist related acts sand other matters related thereto.

PARAGRAPH 3
(F). TAKE APPROPRIATE MEASURES IN CONFORMITY WITH THE RELEVANT PROVISIONS OF NATIONAL AND INTERNATIONAL LAW, INCLUDING INTERNATIONAL STANDARDS OF HUMAN RIGHTS BEFORE GRANTING REFUGEE STATUS, FOR THE PURPOSE OF ENSURING THAT THE ASYLUM SEEKER HAS NOT PLANNED, FACILITATED OR PARTICIPATED IN THE COMMISSION OF TERRORIST ACTS

The Government of Seychelles is a party to the 1951 Convention and Protocol relating to the Status of Refugees. This Convention excludes persons from obtaining refugee status if they have been involved in serious non-political crimes or acts against the purpose and principles of the United Nations. Persons involved in acts of terrorism would be excluded from refugee status in Seychelles under this Convention.

There are no domestic provisions dealing with the granting of refugee status is Seychelles. No proper application has been made for refugee status and therefore no application has been granted.

PARAGRAPH 3
(G). ENSURE, IN CONFORMITY WITH INTERNATIONAL LAW, THAT REFUGEE STATUS IS NOT ABUSED BY THE PERPETRATORS, ORGANIZERS OF FACILITATORS OF TERRORIST ACTS, AND THAT CLAIMS OF POLITICAL MOTIVATION ARE NOT REQUIRED AS GROUNDS FROM REFUSING REQUESTS FOR THE EXTRADITION OF ALLEGED TERRORISTS

Article 33(2) of the 1951 Convention and Protocol relating to the Status of Refugees allows for the removal of persons who have obtained refugee status and who subsequently engage in very serious crimes and if they constitute a danger to the security of Seychelles to be removed to their country of origin even if they fear persecution there.

As no person has been granted refugee status in Seychelles, this process has not been abused.

The draft Anti-Terrorism Bill would provide for the extradition of persons alleged to have committed terrorist acts.

PARAGRAPH 4. NOTES WITH CONCERN THE CLOSE CONNECTION BETWEEN INTERNATIONAL TERRORISM AND TRANSNATIONAL ORGANIZED CRIME, ILLICIT DRUGS, MONEY LAUNDERING, ILLEGAL ARMS-TRAFFICKING AND ILLEGAL MOVEMENT OF NUCLEAR, CHEMICAL, BIOLOGICAL AND OTHER POTENTIALLY DEADLY MATERIALS, AND IN THIS REGARD EMPHASIZES THE NEED TO ENHANCE COORDINATION OF EFFORTS ON NATIONAL, SUBREGIONAL, REGIONAL AND INTERNATIONAL LEVELS IN ORDER TO STRENGTHEN A GLOBAL RESPONSE TO THIS SEROUS CHALLENGE AND THREAT TO INTERNATIONAL SECURITY

Seychelles is committed to strengthening cooperation with its partners in various fora in the global campaign against terrorism. Seychelles is a member of a number of regional and international organisations, which deals with international security issues. Seychelles is a member of the Eastern and Southern African anti Money Laundering Group. Other international and regional organizations include:

- Southern African Development Community (SADC);
- Common Market for Eastern and Southern Africa (COMESA);
- Indian Ocean Commission;
- The International Monetary Fund (IMF);
- The World Bank;
- The United Nations.

TECHNICAL ASSISTANCE

The Government of Seychelles is in need of financial and technical to raise its capacity to deal with terrorism issues:

Capacity Building: Strengthening of Human resources (Police, Airport and Port Security, Immigration Officers, Bank personnel, other Security Officers in investigation techniques, anti money laundering and other fraud detection, monitoring and surveillance.

Legislation and Reporting requirements: Strengthening of the Governments technical capacity to meet ongoing United Nations Counter Terrorism measures, including national implementation of Anti terrorism Treaties.

Capital equipment: Strengthening the Police Force capacity to provide adequate surveillance of coastal waters, utilising patrol vessels, surveillance and communications equipment.

Strengthening the immigration capacity to detect fraudulent documents/passports, utilising ultra violet lights and optical passport readers.

Strengthening of points of entry capacity with updated baggage and body screening equipment.

Strengthening of technology for exchange of information and investigative resources.

21 March 2003

Attachments

1. The Constitution of Seychelles;
2. The Anti-Money Laundering Act, 1996;
3. The Central Bank Act Cap 26;
4. The Financial Institutions Act Cap 79;
5. The International Business Companies Act, 1994;
6. The International Trust Act, 1994;
7. The Seychelles International Business Authority Act, 1994;
8. The Exchange Control Act Cap 76;
9. The Immigration Decree Cap 93;
10. The Passport Act Cap 155;
11. The Mutual Legal Assistance Act 1995;
12. The Extradition Act 1991;
13. The Penal Code Cap 158;
14. The Criminal Procedure Code Cap 54;
15. The Firearms and Ammunition Act Cap 80;
16. The Explosives Act Cap 77;
17. The Foreign Earnings (Regulation) Act Cap 84A;
18. The Public Order Act Cap 194;
19. Control and Protection of Clients Accounts Act Cap 44.

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Letter dated 10 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Swaziland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 3 April 2003 from the Permanent Mission of Swaziland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Kingdom of Swaziland to the United Nations presents its compliments to the Chairman of the Security Council Committee on Counter-Terrorism and has the honour to recall Security Council resolution 1373 (2001) and in particular paragraph 6 of that resolution, which calls upon all States to report to the Counter-Terrorism Committee on the steps taken to implement that resolution.

In this regard, the Permanent Mission of the Kingdom of Swaziland to the United Nations on behalf of His Majesty's Government is honoured to submit Swaziland's first country report on the implementation of resolution 1373 (2001) (see enclosure).

Enclosure

Security Council resolution 1373 (2001): Swaziland report on implementation

SECTION A: OPERATIVE PARAGRAPH 1

The implementation of operative paragraph 1 (a) to (d) of Security Council resolution 1373 (2001)

Question 1: What relevant legislation (including regulations or other legislative machinery) is in place or is contemplated to give effect to the measures contained in operative paragraph 1 (a) to (d) of resolution 1373 (2001)?

At this stage, Swaziland does not have legislation to prevent or suppress the financing of terrorist activity. There is no statutory definition of terrorism in the laws of Swaziland. A statute under consideration, the Internal Security Bill, is the closest the country has come to proscribing terrorism, and terrorist funding. The Bill purports to criminalize acts of insurgency, banditry or sabotage. Acts of insurgency are confined to acts directed at or targeting the government of Swaziland; which suggests that the Bill would not apply in the case of activity directed at foreign governments or nationals, such as the destruction by explosives of a foreign embassy, or the attack of foreign nationals.

The Bill stipulates that insurgency, banditry or sabotage is:
'any act, including the killing or injuring of persons, the damaging or destroying of property or the disruption of communications, which-

(a) is accompanied by the use or threatened use of weaponry, and
(b) has or is likely to have either or both of the following results –
    (i) causing or furthering an insurrection in or forcible resistance to the government or the Defence Force or any law enforcement agency;
    (ii) procuring by force the alteration of any law or policy of the Government.'

The recruitment, or provision of training of insurgents, saboteurs and bandits, is prohibited, as is the provision of financial support to an insurgent, bandit or saboteur. The prescribed punishment is imprisonment of up to twenty years.

The assets of an association of insurgents, bandits or saboteurs may be frozen by a court order at the instance of the Attorney General. In the event of conviction of a member, the court may go on to make a forfeiture order.

The Bill is attached to the report, marked Annexure 'A'.

The Money Laundering Prevention Act 2001 does not encompass the financing of terrorism in its definition of money laundering, although it could be used against the proceeds of terrorist activity. If funds destined to support terrorism were channeled through any of the accountable institutions to which the Act applies, whether the transaction attracts the attention of the regulatory Supervisory Authority (Central bank governor) would depend on whether the manner in which the transaction was conducted

was 'suspicious'. As the law stands however, the processing of funds **destined** to fund terrorist activity outside Swaziland, (assuming this practical hurdle was overcome) would not be an offence. There would therefore be no obligation on the relevant accountable institution to report it. More importantly, an accountable institution that reports a transaction of this nature would not be indemnified against legal action at the instance of the depositor or other party with locus standi, who thereby sustained prejudice.

It is conceivable that the Prevention of Violence Abroad Act (1963) cited below (p.5) might be invoked, although the Act does not provide for freezing of assets or impose any duty on any financial institution.

Question 2: What executive action has been taken or is contemplated to give effect to the measures contained in paragraph 1 (a) to (d) of resolution 1373 (2001)?

(1) The Office of the Prime Minister has as of the 11th March, 2003 directed the Ministry of Foreign Affairs to take the necessary steps to ratify (that is preparing the instruments for deposit) the remaining nine (9) Conventions, namely

(a) Internationally Protected Persons, 1973;
(b) Taking of Hostages, 1979;
(c) Protection Nuclear Material,1980;
(d) Rome Convention, 1988;
(e) Rome Protocol, 1988;
(f) Safety of Maritime Navigation, 1988;
(g) Marking of Plastic Explosives, 1991;
(h) Suppression of Terrorist Bombings, 1997;
(i) Suppression of Terrorist Financing.

(2) As of the 28th March, 2003 the Executive through the Ministry of Foreign Affairs sent instruments of ratification (in our case accession) for deposit to the Depositories.

(3) Cabinet has further, on the belief that the under-mentioned Acts are somehow deficient, approved the -

(a) the drafting of a new Suppression of Terrorism Bill;
(b) amendment of the Money Laundering Act, 2001;
(c) amendment of the Criminal Matters (Mutual Assistance), 2001;
(d) amendment of the Serious Offences (Proceeds of Crime) Act, 2001.

Question 3: What other action, if any, has so far been taken to implement the letter and spirit of paragraph 1(a) to (d) of resolution 1373 (2001) or is contemplated?

None taken except as stated above, although the Prime Minister's office is expected to report on the matter as soon as any other or further action is taken.

Question 4: What steps are being taken to enhance international co-operation in the areas covered by paragraph 1 (a) to (d) of resolution 1373 (2001)? What international agreements have been ratified or acceded to?

Swaziland is a member of the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG), which seeks to foster regional co-operation in combating money laundering.

Swaziland is also a member of the Southern Africa Police Chiefs Co-operation Organisation (SARPCCO), which prioritises combating terrorism.

Swaziland is also party to the Agreement in Respect of Co-operation and Mutual Assistance in the Field of Crime Combating. The agreement binds twelve countries in Southern Africa, and regulates law enforcement capacity of police agencies in the region.

Question 5: Operative sub-paragraph 1(a): What measures, if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

The first serious financial enforcement controls were initiated by the commercial banks with the introduction of a Fraud Liaison Committee, comprising representatives of the banks, Royal Swaziland Police (Fraud Unit), the Director of Public Prosecutions, members of the Anti Corruption unit and senior officials of the Central Bank.

The fraud liaison committee has been instrumental in bringing a number of money laundering related practices to the attention of the police for further investigation. There is no indication that the committee has been used in detecting possible and actual terrorist funding, but it could be developed to perform such a function.

Question 6: Operative sub-paragraph 1(b): What are offences and penalties in your country with respect to the activities listed in this sub-paragraph?

The measures proposed in the Internal Security Bill as described above, can be utilised for this. Among them are offences against public security, recruitment for terrorist acts, training terrorists, supply of weapons, and possession of weaponry, for any of which acts **imprisonment for up to twenty years** is the penalty. For harbouring, concealing or failing to report the presence of insurgents a five-year jail term may be imposed with the alternative of a fine of E10 000 (approximately US$1 000). Financing the proscribed activities will carry a punishment of **imprisonment of up to twenty years.**

Question 7: Operative sub-paragraph 1(c): What legislative procedures exist for freezing accounts and assets at banks and financial institutions? It would be help if States supplied examples of any relevant action taken.

Generally, the Prevention of Corruption Order, the Serious Offences (Confiscation of Proceeds) Act (2001), and the Money Laundering Prevention Act provide the legislative framework for the freezing of accounts and assets held at financial institutions.

The Serious Offences (Confiscation of Proceeds) Act, addresses the issue of forfeiture of instruments by which crime in general, and economic crime in particular is committed. The Act defines the term 'proceeds of serious crime' widely, as 'any property used in or in connection with the commission of a serious offence or any property that is derived or realised directly or indirectly by any person from the commission of any offence or from

any act or omission which had it occurred in Swaziland would have constituted a serious offence.' The underlining has been added for emphasis.

The Director of Public Prosecutions may make an application for a forfeiture order following a conviction. Notice of the application should be given, and the affected parties given a chance to be heard and to testify. The court has discretion to grant or refuse the application. Judicial discretion is to be guided by the following factors:[1]

- The ordinary uses of the property whose forfeiture is sought;
- The use that was intended for the property in the instant case;
- The likely effect that forfeiture will have on any person;
- The gravity of the underlying offence.

The emphasis on proportionality between the public interest served by forfeiture and the private property interests of the person(s) affected by the forfeiture is evident.

The Money Laundering Prevention Act is directed at preventing money laundering and provide for related matters. The definition is clear as to the scope of the concept of laundering. These are proceeds of crime. The Act does not envisage that assets intended to fund criminal activity in general, and terrorism in particular, could be laundered. However, Part V of the Act, which relates to international co-operation, indicates awareness that foreign jurisdictions may have a broader conceptualization, which includes 'instruments connected to money laundering'. In section 22(3) the Act allows judicial notice of a foreign forfeiture order of such instruments by the courts of Swaziland. At the same time, subsection (6) appears to confine such notice to jurisdictions with which Swaziland shares mutual assistance treaties. The terms of each treaty will presumably incorporate a mutually acceptable definition of money laundering.

The legislative framework in the Serious Offences (Confiscation of Proceeds) Act is for criminal rather than civil forfeiture. Forfeiture is contingent upon the conviction of the person against whom it is principally made.

The Act imposes a duty on third parties with an interest in the property, which is at risk of forfeiture to show an innocent connection with the property. The declaration of forfeiture does not affect the property rights of a third party who can show that he did not know that it was being used or would be used in committing crime. The third party has a right of appeal if the trial court should rule against him.

An application for forfeiture in terms of the Serious Offences (Confiscation of Proceeds) Act may be preceded by a 'restraining order' in respect of:

- specified property of the suspect, or
- all of his property, or
- specified property of some other person, alleged to have been used in, or in connection with, the commission of the offence or derived or realised, directly or indirectly, as a result of the commission of the offence.

The order lies at the instance of the Director of Public Prosecutions, on notice to the suspect. Notice need not be given in an urgent matter or where it is not in the public interest to give notice.

[1] Listed in section 4 (2) of the Act

Question 8: Operative sub-paragraph 1(d): What measures exist to prohibit the activities listed in this sub-paragraph?

The Prevention of Corruption Order No. 19 of 1993, though not directly to the point, may be used as a measure to check and investigate nationals, any person and entities to ensure that no funds, properties or financial resources are made available to facilitate the commission of terrorists acts.

> Section 2 of this legislation defines -"private body" to mean any person or organisation not being a public body and it also means a voluntary organization, charitable institution, club, company, firm or partnership;
>
> and - "**public office**" as includes judicial office or any office or position (whether full time or not) held by any person engaged in a public body **or private body** or any office or position (whether full time or not) in respect of which emoluments or allowances are payable from public funds or from Swazi National Treasury;
>
> while "public officer" means the holder of a **public office**;

Section 26 provides -

Possession without reasonable explanation of property, etc.

26. (1) Any person who being or having been a public officer —

(a) maintains a standard of living above that which is commensurate with his present or past official emoluments;

(b) or is in control of pecuniary resources or property disproportionate to his present or past official emoluments; shall., unless he gives a satisfactory explanation to the court as to how he was able to maintain such standard of living or how such pecuniary resources or property came under his control, be presumed to have maintained such standard of living or acquired such pecuniary resources or property as the result of the commission of an offence under section 20, 21, 22 or 25 of this Part *(ten thousand Emalangeni fine or five year imprisonment and forfeiture)*.....

(2) If the Commissioner has reasonable grounds to suspect that any person who has no known source of income or who is not known to be engaged in any gainful employment possesses or is in control of any property or pecuniary resources, the Commissioner shall request such person to give satisfactory explanation in writing as to how the property or pecuniary resources have been acquired by him or come under his control, and if such person is unable to give any satisfactory explanation he shall be guilty of an offence and liable on conviction to the penalty prescribed in section 23 *(ten thousand or five year imprisonment)*

As stated the Prevention of Corruption Order may be used to **require persons and entities to account for large sums of monies found to be in their control or possession,** in the absence of appropriate legislation. Swaziland certainly needs legislation to accommodate the concerns of this sub paragraph and as pointed out above under *Question 2* some legislative amendments shall be put in place.

SECTION B: OPERATIVE PARAGRAPH 2

The implementation of operative paragraph 2(a) to (g) of Security Council resolution 1373 (2001)

Question 1: What relevant legislation (including regulations or other legislative machinery) is in place or is contemplated to give effect to the measures contained in operative paragraph 2(a) to (g) of resolution 1373 (2001)?

The Prevention of Violence Abroad Act (27/1963) provides:

'2. (1) any person who, while in Swaziland –

(a) conspires with any other person to commit within a state or territory other than Swaziland, or to aid or procure the commission within such state or territory of an act of violence the commission of which –

(i) is an offence under the law of such state or territory; and

(ii) in Swaziland would be an offence under the law of Swaziland; or

(b) incites, instigates, commands or procures any other person to commit within such state or territory any such act;

shall be guilty of an offence and liable, on conviction, to imprisonment not exceeding three years or a fine not exceeding one thousand Emalangeni.

(2) References in this Act to the commission of acts of violence include references to omissions done with the intention of causing violence.'

Prosecutions in terms of the Act require the written consent of the Attorney General.

Question 2: What executive action has been taken or is contemplated to give effect to the measures contained in paragraph 2(a) to (g) of resolution 1373 (2001)?

In recent history there has been no reason to prosecute any person under this Act We further believe we do need a comprehensive legislation to consolidate various pieces of legislation promulgated without foresight or anticipation of the emergence of terrorism.

Question 3: What other action, if any, has so far been taken to implement the letter and spirit of paragraph 2(a) to (g) of resolution 1373 (2001) or is contemplated?

Swaziland as a small country with an estimated population of a million people and the majority of people are related to one another (every body knows who is who) and this makes the **Neighbourhood Watch Scheme** very effective. At present the Swazi people are not yet sophisticated in arms of war and explosives. Foreigners are easily detected or identified in the Country hence the success of the Neighbourhood Watch Scheme.

Question 4: What steps are being taken to enhance international co-operation in the areas covered by paragraph 2(a) to (g) of resolution 1373 (2001)? What international agreements have been ratified or accede to?

Swaziland is a member of the International Police Organisation (Interpol) with an obligation to co-operate with other members in combating trans-national organised crime, including terrorism.

While it was not created specifically to combat terrorism, the Criminal Matters (Mutual Assistance) Act can be used to facilitate international co-operation in this sphere. In terms of section 4, where a foreign jurisdiction is involved, the Attorney General may request the assistance of the appropriate authority of the foreign State. The legal assistance that may be sought depends on the nature of the case and the stage reached in pursuing it. The Act however entitles him or her to request:

-that assets believed to be the proceeds of crime that are located in the foreign State be 'frozen';
-that a search warrant for articles believed to be located in the foreign State and which may be relevant to investigations or proceedings in Swaziland be executed;
-the enforcement of a confiscation order emanating from Swaziland;
-that confiscated property or any proceeds realised from (its disposal or dealing with it) be transferred to Swaziland;
-the transfer to Swaziland authorities of a prisoner who consents to assist Swaziland in criminal investigations or proceedings.

The Attorney General has authority to make reciprocal undertakings on behalf of Swaziland.

Non-political crimes are extraditable in terms of the Extradition Act. In addition to the Extradition Act, the Fugitive Offenders (Commonwealth) Act provides that 'any person found in Swaziland who is accused of a relevant offence in any other country (designated country) ...., or who is alleged to be unlawfully at large after conviction of such an offence in such country, may be arrested and returned to such country....'
To this end Swaziland signed the UN Convention against Transnational Organised Crime in December 2000. The Convention has yet to be ratified.

Law enforcement co-operation, and the exchange of information
For a long time it has been apparent to law enforcement authorities in the SADC states that effective containment of organised crime requires co-operation of various agencies. In this regard, the initiatives of the Southern African Police Chiefs Co-operation Organisation (SARPCCO) anticipated Article 19 of the UN Convention Against Transnational Organised Crime. SARPCCO was set up to 'promote, strengthen and perpetuate co-operation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications.' Co-operation under the auspices of SARPCCO, and in terms of a Multilateral Agreement in Respect of Co-operation and Mutual Assistance in the Field of Crime Combating, which was signed in 1997, has yielded notable success in the spheres of motor vehicle theft and firearms smuggling. The agreement extends to terrorism.

SARPCCO intends to establish a central data collection unit at the Interpol sub-regional bureau in Harare, Zimbabwe to collect and analyse information on terrorism in the region and globally.

International Conventions/Agreements ratified or acceded to

Swaziland has either signed or ratified the following Agreements as stated against each Agreement-

AGREEMENT	DATE SIGNED	DATE RATIFIEED OR ACCEDED TO
1. Treaty Banning Nuclear Tests in the Atmosphere, In Outer Space and Under Water		28/4/1969
2. Treaty Establishing the African Nuclear Free Zone (Pelindaba Treaty)		13/11/1996
3. Treaty on Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof		9/8/1971
4. Convention on the Prohibition of the Development, Production and Stockpiling of Acteriological (Biological) and Toxin Weapons and their Destruction		9/8/1971
5. Convention of the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction		20/11/1996
6. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction	4/12/1997	NOT YET
7. Treaty on the Non-Prolifferation of Nuclear Weapons		11/12/1969
8 UN Convention Against Transnational Organized Crime	DEC. 2000	NOT YET
The following Agreements, which form an integral part of the fight against terrorism, have been acceded to (ratified) by Government in the sense that instruments of accession have been sent over to the Depositories as of the 28/3/2003.		
9. Convention on Offences and Certain other Acts Committed on Board an Aircraft	JULY, 1999	INSTR. DEPOSITED
10. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	JULY, 1999	INSTR. DEPOSITED
11. International Convention Against the Taking of Hostages		INSTR. DEPOSITED
12. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents		INSTR. DEPOSITED

13. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents		**INSTR. DEPOSITED**
14. International Convention for the Suppression of Terrorist Bombings		**INSTR. DEPOSITED**
15. International Convention for the Suppression of the Funding of Terrorism		**INSTR. DEPOSITED**

The inertia in ratification of the last of these probably motivated UN Sec Council Res. 1373/2001.

Question 5: Operative sub-paragraph 2(a): What legislative or other measures are in place to give effect to this sub-paragraph. In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorist? What other measures help to prevent such activities?

As above.

Question 6: Operative sub-paragraph 2(b): What other steps are being taken to prevent the commission of terrorist acts, and in particular what early warning mechanisms exist to allow the exchange of information with other States?

As a member of SARPCCO, and Interpol, any information on intelligence relating to terrorism is exchanged through existing channels and structures of these organisations.

Question 7: Operative sub-paragraph 2(c): What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken

The Internal Security Bill criminalizes harbouring, concealing, or failing to report insurgents, bandits, or saboteurs. It proposes to punish any of these acts by imprisonment of up to five years or E10 000 (approximately US$1 000).

Discretion exists in terms of the Immigration Act to deny entry to suspected or known terrorists. This is done by refusing them entry at the border posts and Matsapha International airport.

Question 8: Operative sub-paragraph 2(d): What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

The Internal Security Bill is expected to enable law enforcement authorities in Swaziland to counter the use of the country as a springboard to attack or commit acts of terrorism against other states, to the extent that any preparatory acts would be crimes against the law of Swaziland. In the interim period, the Arms and Ammunition Act, and the common law can be invoked against insurgents targeting foreign countries.

Provisions in Part V of the Bill (section 30) may be used to pre-empt the formation of armed militias with the potential to engage in terrorism internally or against foreign countries.

Question 9: Operative sub-paragraph 2(e) what steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The Internal Security Bill addresses this question. The Bill is out for public debate, and has therefore not yielded any prosecutions.

Question 10: Operative sub-paragraph 2(f): What procedures and mechanisms are in place to assist other States? Please provide any available details on how these have been used in practice.

Swaziland is a landlocked country and is only shares its frontiers with only two countries, South Africa (south, west and north) and Mozambique (east). Extradition agreements have been concluded with various countries, as detailed below:

South Africa
4/09/1968 (updated 24/9/1993)

Mozambique (check dates?)

Apart from specific extradition arrangements with particular countries, Swaziland is party to the SADC Protocols on Extradition and Mutual Legal Assistance in Criminal Matters adopted at the SADC Summit in September 2002. The Criminal Matters (Mutual Assistance) Act 2001, described above, can also be used to render international assistance, as can the Fugitive Offenders (Commonwealth) Act (1969).

Question 11: Operative sub-paragraph 2(g): How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent forgery etc?

The Immigration Act (1982) regulates border controls in Swaziland. Swaziland shares land borders with Mozambique and South Africa.

There is no dedicated system in place at this stage for the unassisted identification of terrorists emanating from outside Swaziland.
Ports of entry are not yet computerised. Some of the twelve border posts are manned by police officers on behalf of the Department of Immigration. In between designated ports of entry, the Umbutfo Swaziland Defence Force is responsible for perimeter patrol, to prevent illegal entry, poaching, drug trafficking and smuggling. There are visa requirements for travellers from many countries, except much of the SADC region. Within the region, visa restrictions apply to visitors from Mozambique, Angola, and Mauritius.

The Interpol link in the RSP, which gives clearance in respect of crimes committed outside Swaziland subjects applications for Swazi passports to verification. Clearance in respect of local crimes is sought from the RSP intelligence unit. The Swazi passport carries certain security features, which can be detected by computer. Swaziland's identity documents can be read by computer, with the identity number as the reference feature against which the important statistics are recorded. For permanent residence applications, police clearance from the applicant's home country is required.

The Immigration Act does not specifically deal with the refusal of entry into Swaziland of suspected or known terrorists. It confers discretion on the Minster responsible for immigration to declare that a person who either:

- has been convicted in any country including Swaziland, of murder or any other offence for which he has been imprisoned (and has not been pardoned), or
- has individually or by membership of a given class, been named by any government or **any other reliable source,** to be classifiable as an undesirable immigrant or a person whose presence in Swaziland is contrary to the national interest,

is a prohibited immigrant.

Only non-citizens may be declared prohibited immigrants. A prohibited immigrant may not enter Swaziland without a prohibited immigrant's pass, issuable only by the Chief Immigration Officer with the approval of the Minister.

Notwithstanding that the Act was not specifically designed with global terrorism in mind, it could be invoked to take cognisance of lists of suspected or known terrorists and terrorist groups supplied by external jurisdictions, such as the United States Department of State, or entities such as the United Nations Security Council Sanctions Committee on Afghanistan. The visa and entry-stop system needs improvement if it is to cope with the growing demands of terrorism control. It would appear that there is bureaucratic red tape, which impedes the rapid transmission of such lists from their source(s) to the relevant Minister, which might require to be streamlined. It is unlikely that all border entry points in Swaziland have access to the prevailing lists.

The eligibility of applicants for identity documents in Swaziland is carefully checked and verified before they are issued.

The Common Monetary agreement, in so far as it is permissive of unrestricted currency movements across national borders in the rand monetary area, creates possibilities of

abuse, on which criminals could capitalise in order to finance the commission of crime in general and terrorism in particular. It is suspected that currency transmitted across borders has been used to fund the printing of fake passports.

SECTION: OPERATIVE PARAGRAPH 3

Implementation of Operative Paragraph 3 (a) to (g) of resolution 1373)

Question 1: What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

The Royal Swaziland Police use the structures of Interpol and SARPCCO to disseminate information on activities and or movements of known or suspected terrorists. These structures have been tried and tested in the spheres of forged and falsified documentation, arms trafficking and explosives.

Question 2: What steps have been taken to exchange information and co-operate in the areas indicated in this sub-paragraph?

Same as the answer to Question 1 above.

Question 3: What steps have been taken to co-operate in the areas indicated in this sub-paragraph?

The infrastructure for co-operation set out above comprises the steps taken in this regard.

Question 4: What are the Swaziland Government's intentions regarding the signing and/or ratification of the conventions and protocols referred to in this sub-paragraph?

The Executive has instructed the Ministry of Foreign Affairs to deposit the instruments of Accession of the nine pertinent Conventions to combating terrorism. Further, the Executive has instructed the Attorney General to draft a new and comprehensive Suppression of Terrorism Bill and such a Bill should be completed by the end of July, 2003.

Question 5: Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Same as above.

Question 6: What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

On arrival, an applicant for asylum is required to surrender to the security authorities at the point of entry and be screened by the police. Any illegal objects in their custody are withdrawn in accordance with the Refugee Control Order (1978) and the Arms and Ammunition Act (1967).

Following the security screening, an asylum seeker is brought to the Home Affairs Department for further screening in accordance with UN and OAU Conventions on refugees. The Refugee Section of Home Affairs is in contact with the UNHCR to get information in doubtful cases. Ultimately applications are referred to the Political Asylum Eligibility Committee, and thence to the Minister responsible for granting of refugee status.
In the event of an asylum seeker who has been involved in terrorist acts, the committee is likely to recommend deportation, in terms of the Refugee Control Order. (section 10(1) and (2))

Question 7: What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing request for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Refugee status may be revoked if the refugee is found to be a terrorist. The Police Intelligence branch is responsible for monitoring the activities of refugees. The branch, acting in liaison with the Chief Immigration officer and the Refugee Section, will normally activate revocation. This team presents a case to the responsible Minister for the withdrawal of refugee status. The refugee may be detained while the case is under investigation. If the case for revocation is established, the refugee is handed over to Immigration for deportation to his or her country of origin.

CONCLUSION/ ASSISTANCE.

1. The Country suffers from acute shortage of Legislative Draftspersons. Presently there is one experienced Draftsperson and two learner students. In such circumstances, it is difficult if not impossible for the one Draftsperson to attend to the legislative requirements of the country and more especially to incorporating the Conventions to national legislation. It could be helpful to get assistance in training three more Draftspersons and a refresher course for the other Draftsperson, probably at the International Legislative Drafting Institute, New Orleans, Louisiana, USA. They seem to offer good and modern legislative courses.

2. There is also the need to computerize the Border Entry points. Presently they are not computerized on the Swaziland side whilst they are on the South African side. Computerization of the Border entry points would be an added advantage in combating terrorism. Assistance in this field would be appreciated.

Friday, March 28, 2003
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Security Council

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 18 September 2002 (S/2002/1047) transmitting a supplementary report from Andorra submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Andorra to the United Nations to set out its preliminary comments. Andorra has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Security Council

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 9 September 2002 (S/2002/1022) transmitting a supplementary report from Azerbaijan submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Azerbaijan to the United Nations to set out its preliminary comments. Azerbaijan has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 18 October 2002 (S/2002/1185) transmitting a supplementary report from Georgia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Georgia to the United Nations to set out its preliminary comments. Georgia has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 24 October 2002 (S/2002/1193) transmitting a supplementary report from Germany submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Germany to the United Nations to set out its preliminary comments. Germany has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 6 November 2002 (S/2002/857) transmitting a supplementary report from Greece submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Greece to the United Nations to set out its preliminary comments. Greece has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 18 October 2002 (S/2002/1184) and its annex, a supplementary report from Panama submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts and has written to the Permanent Representative of Panama to the United Nations to set out its preliminary comments. Panama has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 31 July 2002 (S/2002/878) and its annex, a supplementary report from Paraguay submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Paraguay to the United Nations to set out its preliminary comments. Paraguay has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 26 September 2002 (S/2002/1085) and its annex, a supplementary report from Peru submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts and has written to the Permanent Representative of Peru to the United Nations to set out its preliminary comments. Peru has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 24 October 2002 (S/2002/1190) and its annex, a supplementary report from Portugal submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts and has written to the Permanent Representative of Portugal to the United Nations to set out its preliminary comments. Portugal has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 31 July 2002 (S/2002/863) and its annex, a supplementary report from Slovenia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts and has written to the Permanent Representative of Slovenia to the United Nations to set out its preliminary comments. Slovenia has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 18 September 2002 (S/2002/1046) and its annex, a supplementary report from the Syrian Arab Republic submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of the Syrian Arab Republic to the United Nations to set out its preliminary comments. The Syrian Arab Republic has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 17 June 2002 (S/2002/676) and its annex, a supplementary report from Uruguay submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Uruguay to the United Nations to set out its preliminary comments. Uruguay has been requested to provide a response in the form of a supplementary report by 7 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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